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09/920,640	08/03/2001	Steve Mead	12440-02/ejg	6057

33797 7590 03/19/2003

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EXAMINER
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HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

# Office Action Summary

Application No.  
09/920,640

Applicant(s)  
STEVE MEAD

Examiner  
YVONNE M. HORTON

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 7, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Withdrawal of Allowable Subject Matter***

1. The indicated allowableness of claims 10-12 is withdrawn in view of a more careful review of the reference(s) to GIBSON. Rejections based on the newly cited reference(s) follow.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for the outer floor covering being a clear resin film. The outer covering has only been disclosed as being a high-wear film. There is nothing in the specification supporting the outer covering as being "clear".

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-4, 7-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,548,559 to LEVINE. Regarding claims 1 and 7, LEVINE discloses the use of a floor panel including a base (4) having a planar load bearing surface (colored red), an inner planar covering (6) adhesively secured to the base structure (4), column 1, lines 64-65, and outer planar

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floor covering (12) adhesively bonded to the inner floor covering (6), column 1, lines 69-70; wherein, the inner floor covering (6) extends beyond the outer floor covering (12) to form a border (colored blue), see the marked attachment. In reference to claims 2 and 8, the outer floor covering (12) is vinyl or an asbestos tile, thereby being a decorative surface. Regarding claims 3 and 8, the inner floor covering (6), although metal, is also a decorative surface and because it is metal. Metal is usually has a grey tone. Although shiny, metal is a fairly “dark” surface, especially in consideration to other surfaces such as clear resin films, white, tan or beige colored finishes. In reference to claim 4, the border (colored blue) includes an edge that lies in the same plane as the inner panel (6). Further regarding claim 7, the base structure (4), the inner covering (6), and the outer covering (12) are all rectangular. The inner floor covering (6) is co-extensive with the base structure (4), the outer floor covering (12) is a separate element, and the border (colored blue) present a peripheral edge for maintaining edge trim (10). Regarding claim 11, LEVINE discloses that the panels of his system are assembled to form an elevated floor assembly from wall-to-wall. Inherently, flooring systems of this type are arranged in edge-to-edge abutting contact.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,548,559 to LEVINE in view of US Patent #4,625,491 to GIBSON. LEVINE discloses the basic claimed floor panel as detailed above except for the inner/outer floor coverings specifically being a high pressure "laminate". GIBSON teaches that it is known in the art to provide a floor panel (1) with an inner floor covering (I), represented by (23,26,27,28,29,31,32), and an outer floor covering (O), represented by (22), wherein the members (22) and (23,26,27,28,29,31,32) of the inner (I) and outer (O) layers; respectively, are impregnated throughout and therebetween with a resin to form a high pressure laminate, column 2, line 48 and column 3, lines 33-44. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the panel of LEVINE with inner and outer coverings that are high pressure laminates, as taught by GIBSON, in order to form a floor that provides an abrasive resistance and is very durable yet lighter in weight, less expensive to manufacture and easy to clean. Regarding claim 6, GIBSON also teaches that the outer layer is a clear resin which is inherently known as being a high wear film (22). As detailed above, GIBSON also teaches that the inner layers (23,26,27,28,29,31,32) are impregnated throughout with a resin to form a high pressure laminate, column 2, line 48 and column 3, lines 33-44. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the panel of LEVINE using the high pressure laminate/high wear film of GIBSON in order to create a flooring system that is durable and will wear less with higher levels of traffic thereon.

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7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,548,559 to LEVINE in view of US Patent #4,625,491 to GIBSON. The outer floor covering (12) of LEVINE is vinyl and vinyl is a resin film. However, although LEVINE discloses the use of a vinyl film, he does not detail if the vinyl is colored or clear. As detailed above, LEVINE discloses the basic claimed structure except for the resin film being clear. GIBSON teaches that it is known in the art to form an outer floor layer (22) from a clear resin, column 3, line 24. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the outer flooring layer of LEVINE as a clear resin layer in order to ensure that the flooring assembly is not only wear resistant but also resistant to moisture.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,625,491 to GIBSON. GIBSON discloses the use of an elevated (column 1, line 51) floor panel (10) including a rectangular base (13) supported at the corners thereof (see figure 1) and having a load bearing surface (colored red); a rectangular inner floor covering (23,26,27,28,29,31,32) coextensive with the base (13) and adhesively secured thereto; and an outer floor covering (22) secured to the inner floor covering (23,26,27,28,29,31,32); wherein the inner floor covering (23,26,27,28,29,31,32) extends beyond the outer floor covering (22) to create a border (B,14) along the peripheral edge of the panel (10), see the marked attachment. GIBSON discloses the basic claimed structure except for explicitly detailing that there is a clear resin film between the inner (23,26,27,28,29,31,32) and outer (22) floor coverings. Again, the inner (23,26,27,28,29,31,32) and outer (22) floor coverings are impregnated throughout and

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therebetween with a resin, with there obviously, at the time the invention was made, being a clear resin film formed through and between the inner (23,26,27,28,29,31,32) and outer (22) floor coverings.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,625,491 to GIBSON in view of US Patent #3,548,559 to LEVINE. GIBSON discloses the basic claimed structure except for the base specifically being steel. The base of GIBSON is metal; however, LEVINE teaches that it is known in the art to form the base member (2) of a flooring structure out of steel, column 1, line 66. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the base of GIBSON out of steel, as taught by LEVINE, in order to form a flooring structure that is high in strength and that is very durable. Although LEVINE does not teach that his steel is “stamped”, the applicant is reminded that the method of forming a device is not germane to the issue of patentability of the device itself.

10. Claims 13-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,625,491 to GIBSON. GIBSON discloses the method of producing a floor panel including the steps of cutting an outer panel, applying adhesive thereto, cutting an inner panel so as to form a border, applying adhesive thereto, securing the inner and outer panels together and to the base. GIBSON discloses the basic method except for explicitly stating the use of a jig. Although GIBSON does not disclose the use of a jig, jigs are old and very well known in the art for their use in flooring systems. Thus, it would have been obvious to one having ordinary skill in the art

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at the time the invention was made that the inner and outer panels are held in a jig prior to and after being secured together; and that the assembly of the inner and outer panels to the base panels are performed by positioning in a jig. In reference to claim 14, the scarfing procedure used by GIBSON enable the size of the border to be adjusted. Regarding claim 20, the panels are pressed together. Regarding claims 15-18, although GIBSON does not explicitly detail the use of a jig, jigs are well known to include suction in order to stabilize the item being retained therein and rams for removal of the item. In reference to claim 19, GIBSON includes a resin based adhesive, column 3, lines 33-35.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

12. In regards to claims 13-20, the applicant's arguments filed 1/7/03 have been fully considered but they are not persuasive. The mere statement that a prior art reference does not teach the claimed invention does not constitute a rebuttal to any rejection set forth in an Official Action. Thus, without any supporting or detailed arguments in opposition to the rejections of claims 13-20 over GIBSON, the rejections will remain.



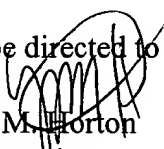
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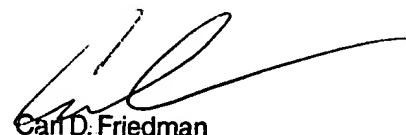
***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

  
Yvonne M. Horton  
Patent Examiner  
Art Unit 3635  
March 12, 2003

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

Dec. 22, 1970

G. LEVINE

3,548,559

FLOOR PANEL

Filed May 5, 1969

2 Sheets-Sheet 2

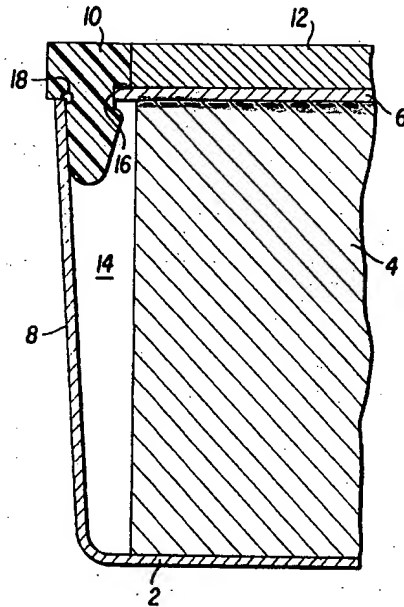


FIG. 3

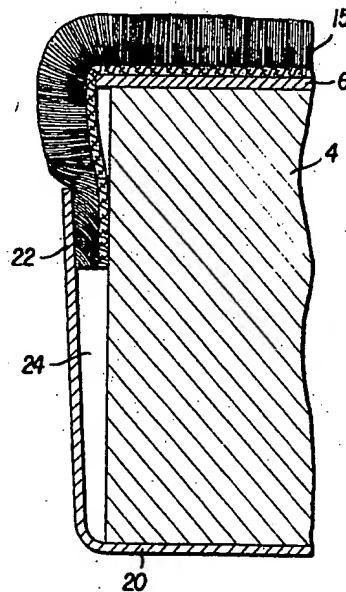


FIG. 4

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